

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Streamlining Deployment of Small Cell	§	WC Docket No. 16-421
Infrastructure by Improving Wireless Facilities	§	
Siting Policies; Mobilitie, LLC Petition for	§	
Declaratory Ruling	§	

COMMENTS OF THE CITY OF NORTH PORT, FLORIDA

This letter is to provide comment on behalf of the City of North Port regarding Mobilitie's recent FCC Petition for Declaratory Ruling. The City of North Port does not currently have a set procedure for permitting telecommunications companies to use public rights-of-ways, however an ordinance has been in development to establish these guidelines. The City of North Port was made aware of this issue after receiving two permit applications from Mobilitie to install 120' poles in the right-of-way. The City has serious concerns about the ability of Mobilitie, or similar companies, to place 'utilities' in the City's rights-of-way. As the City proceeds in establishing these regulations, it seeks to be able to create guidelines that determine proper fees for usage of the rights-of-way, require appropriate design, both for safety and aesthetic purposes, and strongly encourage or require collocation of facilities. The City supports the reasonable time frames and in fact complies with the more stringent timelines imposed in the State of Florida.

The Mobilitie Approach

In reviewing the applications submitted by Mobilitie, City staff found that they were incomplete, missing large amounts of information that was vital to the issuance of a permit, including a legal survey, exact location of the poles, structural calculations including wind speed tolerance, material and foundation construction, locations of existing infrastructure that may cause concern for potential conflicts, and plans for the proposed underground fiber optic lines. From the research conducted and discussions with other municipalities, City staff questions if the applications submitted by Mobilitie were provided in an earnest attempt to construct.¹ A simple look into how the company has approached the application process in other jurisdictions shows that this is typical, and perhaps this borderline abuse of the process explains the pushback and difficulties that the company has encountered nationwide.

Fees for Applications and Use of Rights-of-Ways

¹ Perhaps this is the reason Mobilitie included backup material to help their case, such as a graphic on the future of 5G technology and sample ordinances. One of the proposed locations was in the right-of-way on a road that is well-known to be slated for expansion and was in front of a single-family home, showing a lack of research and preparation in the permit submittal.

The City has no desire to impose unfair or unreasonable fees on small cell and DAS providers. However, municipalities should be able to collect appropriately for these services. Companies such as Mobilitie are claiming to be a telecommunications provider and seeking to use the rights-of-way free of charge as a 'utility'. These companies are seeking to use city-owned property without any type of franchise, or rental, fee. Major telecommunications providers, such as Verizon, pay these types of fees for using City property. Why would a third-party provider be treated differently? They are requesting for fees to be "competitively neutral and non-discriminatory", yet at the same time requesting that they be limited to the costs incurred for processing applications and maintenance of rights-of-way. Clarification on this terminology from the FCC is not required. These companies should be treated the same as existing telecommunications companies that utilize City property.

Number of Facilities and Collocation

The City of North Port understands the need for advancement in technology and the additional infrastructure that is required to support this. The City is in Southwest Florida, and while relatively small in population at the time, has one of the largest areas in the state at nearly 105 square miles. This land mass leaves the potential for the City to be dealing with an overwhelming number of small cell deployments, and it is crucial that this infrastructure is managed properly. Analysis shows that due to the size and necessary separation by the provider, the City could be looking at up to 5,500 poles.² And this is from just one carrier. Expand this even further to include the four major carriers and the number rises to as many as 22,000 poles.

To combat this, the City would like create regulations that encourage and require collocation. However, it is not possible to stipulate the rates that the owner of the pole may charge, which could render the feasibility of collocation null. The City requests that the FCC consider regulations on the telecommunications providers to require fair and reasonable fees when dealing with a collocation on one of their poles to increase the likelihood that collocations will be feasible and decrease the potential number of poles that need to be installed.

Concerns about Design

The City of North Port has serious concerns about the designs that have been shown in relation to the safety and aesthetic appeal. When telecommunications companies are allowed unfettered access to rights-of-ways, the potential for overcrowding of these facilities is increased. By having a street lined with poles, visibility has been obstructed and vehicles have more obstacles to overcome if they need to pull off the road in an emergency. Additionally, safety concerns arise when a 120' pole is proposed in front of a single-family home along a major arterial. If it were to fall, it could cause damage to the home or block the roadway for emergency services. The increased risks associated with the placement of these facilities

² When staff met with Mobilitie, they described their system as using a sort of hub and spoke type system for placement, with poles needing to be between 300 and 1500 feet apart for proper communication. Using this information, staff ran an analysis using GIS software on how many poles the City could be looking to permit for buildout. Starting with the two locations on the permit applications that were received, staff created a buffer of 750 feet (a middle ground for distance), and placed additional markers for location of future services. This was done until the two areas met, which encompassed a total area of 10.6 square miles. Subtracting land in the City designated for conservation, roughly 15.6 square miles, the number of poles in that 10.6 square miles was extrapolated to determine total coverage for the City, ending with a total of 5,501 poles. Even if the distance of 1500 feet was feasible, the City could still be looking at 2,750 poles.

indicates that they should be mutually agreed upon between the City and the telecommunications company.

In addition, the influx of these facilities that is discussed in the public notice and the number of facilities that is estimated in the above analysis causes great aesthetic concerns. Citizens demand a certain level of aesthetic appeal, and this is greatly diminished when a street is lined with pole after pole or when one pole has four or five boxes and wires hanging from it in every direction. Municipalities should be able to retain some level of control over the aesthetics of these types of facility. As a City that requires all new utility lines to be installed underground, the potential proliferation of these poles seems like a step backwards.

A Better Approach

City staff was approached by another company with a different philosophy, that of partnering with the municipalities to create a network of infrastructure that truly blends in and is essentially part of the fabric of the neighborhood. As an example, in one community they worked with, the small cell technology was deployed through poles that were the average height of a normal utility pole (~35 feet) and had a decorative light fixture. One pole was also able to house the necessary equipment for all carriers, inside the pole with no outside hanging wires, and the conduit that was placed was available for use by both the company and other utilities, including the City, the school board, and other private utilities. By working in this manner, needs of the City, such as street lights and available conduit space, are met while at the same time the infrastructure necessary for advancement of wireless technology is installed. This is the type of smart growth and collaboration that should be taking place throughout the country.

Conclusion

The City of North Port urges the FCC to consider all implications of a declaratory ruling in favor of Mobilitie. It is the strong opinion of City staff that this petition is a classic case of a one-sided story. Mobilitie is reaching resistance and hurdles from municipalities across the country due to the tactics it uses and the means by which it attempts to reach its end. It is not a strong hand that is needed from the FCC to allow telecommunications providers to work separately from municipalities, but rather better policy to require a collaborative effort between the two entities. Review and consideration of this letter is appreciated.

Respectfully submitted,

Nicole Galehouse
Planner
City of North Port, Florida
4970 City Hall Blvd
North Port, FL 34286
(941) 429-7098